

# HOUSE . . . . . No. 1557

By Mr. Costello of Newburyport, petition of Michael A. Costello relative to consumer choice in the repair of damaged motor vehicles under motor vehicle insurance policies. Financial Services.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT PROVIDING FOR ADDITIONAL CONSUMER CHOICE AND PROTECTION  
IN THE REPAIR OF DAMAGED MOTOR VEHICLES UNDER AUTO INSUR-  
ANCE POLICIES.

*Be it enacted by the Senate and House of Representatives in General  
Court assembled, and by the authority of the same, as follows:*

1 Chapter 175 of the General Laws, as appearing in the 2002  
2 Official Edition, is hereby amended by adding after section 113U  
3 the following new section:—

4 Section 113V(a) As used in this section, the following words  
5 shall have the following meanings unless the context clearly  
6 requires otherwise:—

7 “Appraiser”, a motor vehicle damage appraiser licensed pur-  
8 suant to section 8G of chapter 26 of the General Laws;

9 “Claimant”, a first-party claimant or insured or a third-party  
10 claimant who asserts a right of recovery for motor vehicle repairs  
11 under a motor vehicle insurance policy;

12 “Insurer”, an insurance company authorized to write and  
13 engaged in writing motor vehicle insurance in the Common-  
14 wealth;

15 “Repair shop” or “shop”, a motor vehicle repair shop duly reg-  
16 istered under chapter 100A of the General Laws.

17 (b) No insurer shall require or direct that a claimant have a  
18 damaged motor vehicle repaired at a specific repair shop or at spe-  
19 cific repair shops, nor shall any such insurer coerce any such  
20 claimant into having a damaged motor vehicle repaired at a spe-  
21 cific repair shop or specific repair shops. After claimant has  
22 chosen a repair shop, the insurer shall not suggest or recommend

23 that the claimant select a different repair shop or different repair  
24 shops. Any violations of this subsection (b) that constitute a pat-  
25 tern of behavior by an insurer shall constitute a violation of  
26 chapter 176D of the General Laws and shall be enforced by the  
27 commissioner of insurance.

28 (c) Upon the initial inquiry regarding a claim, an insurer shall  
29 disclose the right of the claimant to select the repair shop of his or  
30 her choice. At the same time, the insurer shall also disclose all  
31 options for repair of the damaged motor vehicle to the claimant.  
32 If the claimant has not selected a repair shop, the insurer may  
33 identify those repair shops electing to participate in the expedited  
34 repair program authorized by this section and/or those shops par-  
35 ticipating in a direct payment plan authorized by section 34O of  
36 chapter 90 of the General Laws and by section 113O of  
37 chapter 175 of the General Laws.

38 (d)(1) Notwithstanding any law or regulation to the contrary,  
39 including but not limited to any law or regulation concerning the  
40 appraisal and/or reinspection of damaged motor vehicles, any  
41 insurer and any repair shop may enter into a voluntary agreement  
42 for the expedited repair of a damaged motor vehicle when a shop  
43 obtains a repair order signed by the claimant. In such case, the  
44 shop shall electronically submit an estimate of the cost of repairs  
45 to the insurer, together with a copy of the signed repair order and  
46 photographs of the damaged vehicle. If the insurer accepts the  
47 estimate, the repair shop shall proceed with completion of the  
48 repairs in accordance with the estimate. The insurer shall commu-  
49 nicate to the shop within two business days as to whether it  
50 accepts the estimate. In the event that an insurer does not accept  
51 an estimate in a given instance or if the insurer fails to respond  
52 within two business days, the repair shall proceed in accordance  
53 with the requirements of section 8G of chapter 26 of the General  
54 Laws, of section 34O of chapter 90 of the General Laws and of  
55 section 113O of chapter 175 of the General Laws, and the regula-  
56 tions thereunder.

57 (2) Notwithstanding the provision of any law or regulation to  
58 the contrary, an insurer and a repair shop may agree to an expe-  
59 dited supplementary process when a shop requests a supplemen-  
60 tary allowance. In such case, the shop shall electronically submit  
61 to the insurer an itemization of the additional amount needed to

62 complete the repairs to the damaged vehicle, together with such  
63 supporting information as may be required. If the insurer accepts  
64 the supplementary allowance requested, the repair shop shall pro-  
65 ceed with completion of the repairs as agreed. The insurer shall  
66 communicate to the shop within two business days as to whether it  
67 accepts the supplementary allowance requested. In the event that  
68 an insurer does not accept the supplementary request or if the  
69 insurer fails to respond within two business days, the repair shall  
70 proceed in accordance with the requirements of section 8G of  
71 chapter 26 of the General Laws, of section 34O of chapter 90 of  
72 the General Laws and of section 113O of chapter 175 of the  
73 General Laws, and the regulations thereunder.

74 (3) Notwithstanding the provision of any law or regulation to  
75 the contrary, it shall not be a conflict of interest or otherwise pro-  
76 hibited for an appraiser, in connection with an expedited repair  
77 program authorized by this section, to have a damaged motor  
78 vehicle repaired at a repair shop which the appraiser owns or in  
79 which he has an interest, if such ownership or interest has been  
80 disclosed to the insurer and the insurer has no objection.

81 (4) The insurer will guarantee the quality of the materials and  
82 workmanship used in making repairs if the repairs are performed  
83 in accordance expedited repair and supplementary allowance  
84 process specified herein.